

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LINDSAY KRESLAKE,

No. C 13-02080 SI

Plaintiff,

v.

**THIRD ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE DISMISSED  
FOR FAILURE TO PROSECUTE**

MIDLAND CREDIT MANAGEMENT, INC.,

Defendant.

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*Pro se* plaintiff Kreslake filed this suit against defendant Midland Credit Management, Inc., in Alameda County Superior Court for “violation of FDCPA 5809 & violations of Rosenthal Act.” Compl. at 2. On May 14, 2013, after the case was removed to this Court, defendant filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The hearing was set for June 28, 2013, and plaintiff’s opposition was due on May 30, 2013. Plaintiff did not file an opposition, nor did plaintiff request an extension of time. Accordingly, the Court ordered plaintiff to show cause by no later than June 28, 2013, why this case should not be dismissed for failure to prosecute. Then, on June 26, 2013, the Court’s order was returned as undeliverable to plaintiff’s address. A second order to show cause issued on July 2, 2013, but it was not clear from the record whether plaintiff received it.

Plaintiff has now spoken with the courtroom deputy, by telephone, and has informed her of two addresses (P.O. Box 1453, Los Alamos, NM 87544; and P.O. Box 1622, Pebble Beach, CA 93953) which will reach plaintiff. Further, plaintiff provided the courtroom deputy with a phone number at which plaintiff could be reached for the regularly-scheduled Case Management Conference on Friday, September 13, 2013, at 2:30 pm. Defense counsel was present for the Case Management Conference; however, the phone number plaintiff provided did not answer, but went straight to voicemail. The Case Management Conference proceeded without plaintiff’s presence.

Accordingly, plaintiff is **ORDERED TO SHOW CAUSE in writing by no later than September 27, 2013 why this case should not be dismissed for failure to prosecute.** *See* Fed. R. Civ. Proc. 41(b). **In addition, plaintiff is ORDERED to file and serve an opposition to defendant’s motion to dismiss no later than September 27, 2013. Defendant’s reply is due October 4, 2013, and a hearing on the motion is scheduled for October 11, 2013 at 9:00 am.**

1 If plaintiff does provide adequate and timely responses, this action will be dismissed without  
2 prejudice.

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4 **IT IS SO ORDERED.**

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6 Dated: September 13, 2013



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SUSAN ILLSTON  
United States District Judge